

Decision **DRAFT DECISION OF ALJ WONG** (Mailed 12/9/2003)**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

Application of Southern California Edison Company (E 338-E) for Authority to Institute a Rate Stabilization Plan with a Rate Increase and End of Rate Freeze Tariffs.

Application 00-11-038
(Filed November 16, 2000)

Emergency Application of Pacific Gas and Electric Company to Adopt a Rate Stabilization Plan. (U 39 E)

Application 00-11-056
(Filed November 22, 2000)

Petition of THE UTILITY REFORM NETWORK for Modification of Resolution E-3527.

Application 00-10-028
(Filed October 17, 2000)

**OPINION REGARDING WESTERN AREA
POWER ADMINISTRATION INTEREST****Background and Discussion**

In Decision (D.) 03-09-017, Pacific Gas and Electric Company (PG&E) was ordered to remit to the California Department of Water Resources (DWR) the Commission-approved power charge for all of the energy that DWR supplied to meet PG&E's retail load, but which was purportedly used to serve PG&E's load obligations with the Western Area Power Administration (WAPA). Ordering Paragraph 2 of D.03-09-017 directed PG&E to have its shareholders pay interest on the power charge remittance. PG&E was also directed to discuss the interest

issue with DWR to determine the appropriate amount of interest that should be paid by PG&E's shareholders to DWR.

In accordance with Ordering Paragraph 2.b. of D.03-09-017, PG&E filed its "Notice Regarding WAPA Interest Issue" on October 20, 2003. In that notice, PG&E stated that it had reached agreement with DWR on the amount of interest to be paid, and that the amount is \$13,148,307.02. On October 29, 2003, PG&E filed a "Supplemental Notice Regarding WAPA Interest Issue." The supplemental notice stated that the original notice did not correctly set out the agreed upon interest amount. PG&E states that the correct amount is \$13,316,623.77.

The agreed upon interest amount is based on "the monthly weighted average interest rate PG&E earned on short term investments during the period between when it would have made specific remittances to DWR had the remittance rules adopted by D.03-09-017 been in place initially, and when PG&E actually made the WAPA true up remittance pursuant to D.03-09-017 and D.03-09-018." (Supplemental Notice, p. 2.)

The supplemental notice also states that "PG&E has agreed with DWR to provide the interest amount to DWR within 5 days after a Commission action authorizing PG&E to do so, and has agreed that the penalty provisions of the servicing order would apply if PG&E does not provide the amount to DWR within that time." (Supplemental Notice, p. 2.) The supplemental notice also states that if the Commission decides on some other date for remitting the WAPA interest amount, that would supercede the payment timing agreement between PG&E and DWR.

In D.03-09-017, we allowed PG&E and DWR "to determine the appropriate amount of interest that should be paid by PG&E's shareholders for PG&E's

untimely remittances associated with the WAPA load, subject to Commission approval.” (D.03-09-017, p. 31.) The decision also noted that the servicing order contains specific provisions that address when interest is due.

The interest amount of \$13,316,623.77 has been agreed to by both DWR and PG&E. The interest amount is based on the interest rate that PG&E earned on short term investments during the period between when the power charge remittances to DWR were due. Since DWR and PG&E have agreed to the amount of interest that is owed, and because the amount represents what PG&E was earning on short term investments at the time these remittances were due, we approve the WAPA interest amount of \$13,316,623.77. PG&E’s shareholders shall be responsible for the WAPA interest amount, and PG&E shall remit the amount of \$13,316,623.77 to DWR within five days from today’s date.

Comments on Draft Decision

The draft decision of the assigned Administrative Law Judge (ALJ) was mailed to the parties in accordance with Public Utilities Code Section 311(g)(1) and Rule 77.7 of the Rules of Practice and Procedure. Comments were filed on December 29, 2003 by PG&E, San Diego Gas & Electric Company (SDG&E), and Southern California Edison Company (SCE). Reply comments were submitted on January 5, 2004 by DWR, PG&E, SDG&E, SCE and The Utility Reform Network.

We have reviewed and considered the comments of the parties, but no changes to the decision have been made.

Assignment of Proceeding

Loretta M. Lynch and Geoffrey F. Brown are the Assigned Commissioners, and John S. Wong is the assigned ALJ in this proceeding.

Findings of Fact

1. D.03-09-017 directed PG&E to have its shareholders pay interest on the power charge remittance owed to DWR, and directed PG&E to discuss the interest issue with DWR to determine the appropriate amount of interest that should be paid.

2. PG&E's supplemental notice states that PG&E and DWR have agreed that the WAPA interest amount is \$13,316,623.77.

3. The WAPA interest amount is based on the monthly weighted average interest rate PG&E earned on short-term investments during the period between when it would have made specific remittances to DWR had the remittance rules adopted by D.03-09-017 been in place initially, and when PG&E actually made the WAPA true up remittance pursuant to D.03-09-017 and D.03-09-018.

4. PG&E has agreed with DWR to pay the interest amount to DWR within five days after a Commission action authorizing PG&E to do so, and if no payment is made, that the penalty provisions of the servicing order will apply.

Conclusions of Law

1. The WAPA interest amount of \$13,316,623.77 should be approved.

2. PG&E should be directed to remit the amount of \$13,316,623.77 to DWR within five days from today's date.

O R D E R**IT IS ORDERED** that:

1. The interest amount of \$13,316,623.77, which Pacific Gas and Electric Company (PG&E) and the California Department of Water Resources (DWR) agree is the amount of interest owed on the under-remittance associated with the

DWR energy used to serve PG&E's contractual obligation with the Western Area Power Administration, is approved.

2. The shareholders of PG&E shall be responsible for paying the interest amount of \$13,316,623.77 to DWR, and PG&E shall remit such sum to DWR within five days from today's date.

This order is effective today.

Dated _____, at San Francisco, California.